

# Akin Gump

STRAUSS HAUER & FELD LLP

JOHN P. KANE  
+1 212.872.1006/fax: +1 212.872.1002  
jkane@akingump.com

January 19, 2021

VIA ELECTRONIC COURT FILING

Magistrate Judge Robert M. Levy  
U.S. District Court in the Eastern District of New  
York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *Pozniak v. Shwartsman*, 20-cv-02956-AMD-RML

Dear Judge Levy:

Our firm represents Petitioner Natalia Pozniak. We write to provide a status report per the Court's January 11, 2021 order (the "Order").

### *Petitioner's Position*

On January 12, 2021, Respondent provided a copy of three pages of Dr. Kishinevsky's handwritten notes and identified certain information regarding cases in which Dr. Kishinevsky testified as an expert. The notes are illegible, in a foreign language, and appear incomplete in that they are missing notes from many of the dates mentioned in the "treatment notes" word document he had previously produced. That same day, I communicated to Respondent's counsel that Dr. Kishinevsky's notes appeared incomplete and asked whether and when Respondent would produce additional notes from Dr. Kishinevsky. On January 19, 2021, Respondent's counsel responded that he has provided the full set of notes from Dr. Kishinevsky's file.

In addition, as of the filing of this letter, Respondent has not identified with specificity the exhibits he intends to introduce at trial per the Order. Respondent did not request an extension of the Court's January 19, 2021 deadline to do so, and therefore Petitioner reserves all rights to object to any exhibits identified after the deadline.

### *Respondent's Position<sup>1</sup>*

With regard to the original handwritten notes of Dr. Kishinevsky, respondent has at this time provided the full set of notes from her file. To the extent that the handwritten notes are in a foreign language, it is respondent's position that respondent is not under any obligation to translate

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<sup>1</sup> Respondent's counsel provided Respondent's Position to me via email on January 19, 2021.



Magistrate Judge Robert M. Levy  
U.S. District Court in the Eastern District of New York  
January 19, 2021  
Page 2

the scanned handwritten notes. Respondent adds that a word document was prepared by Dr. Kishinevsky which contains her notes in English, and which was previously provided to petitioner.

To the extent that petitioner claims that the notes are illegible, we again say that an English version was already provided to petitioner, and the petitioner is free to question Dr. Kishinevsky at the time of trial regarding her notes.

With specific regard to the parties' agreement and the Court's directive that respondent provide a revised pretrial exhibit list, respondent's counsel wishes to advise the Court that counsel did meet with respondent this evening for purposes of reviewing various documents, and we are prepared to file a revised pretrial exhibit list by close of business tomorrow.

We thank the Court and counsel for their continued courtesy and consideration in this matter.

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Thank you for your attention to this matter.

Respectfully,

*/s/ John P. Kane*

John P. Kane

cc: Marcus Nussbaum